UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK
MANHATTAN DIVISION

IN RE:

AVENUE C TENANTS HDFC,

DEBTOR.

CHAPTER 11

CASE NO. 16-11209

JUDGE: Stuart M. Bernstein

OBJECTION TO DEBTOR'S PROPOSED CHAPER 11 PLAN

TO: THE HONORABLE STUART M. BERNSTEIN
UNITED STATES BANKRUTCY JUDGE

Tower Capital Management, LLC as Servicer for NYCTL 1998-2 TRUST and The Bank of New York Mellon as Collateral Agent and Custodian ("Tower"), with respect to real property located at 73-75 Avenue C, New York, NY 10009 (the "Property"), by and through its attorneys, Shapiro, DiCaro & Barak, LLC; hereby objects to approval of the proposed Plan of Reorganization and Disclosure Statement dated July 28, 2016 and August 25, 2016 respectively (the "Plan") [ECF, Doc. 14, 17], and in support thereof respectfully states as follows:

FACTUAL BACKGROUND

1. Tower holds a tax lien on the Property. A Tax Lien Certificate dated August 8, 2013 in the principal amount of $794,923.57, plus interest {"Tax Lien"). The Tax Lien was recorded in the City Register of New York on August 13, 2013 as CRFN 2013000318672 encumbering the Property.

2. On April 29, 2016, the debtor Avenue C Tenants HDFC (the "Debtor") filed a voluntary petition under Chapter 11 of the Bankruptcy Code.

3. On June 17, 2016 Tower filed a proof of claim for this lien, reflected on the claims register as Claim #3-1

4. On July 28, 2016, the Debtor filed the Chapter 11 Plan.

5. On August 25, the Debtor filed the Disclosure Statement.

OBJECTIONS

6. Tower Objects to the proposed Plan and Disclosure statement because it improperly classifies its claim as unimpaired, does not contain any default provision in case the Debtor should default on the terms of the plan subsequent to confirmation and does not contain sufficient information for Tower to make an informed decision about whether to accept the Debtor's plan of reorganization.

7. The Plan proposed by the Debtor classifies the Tax Liens in Class 2, which is the class given to all secured claims.

8. The property has two vacant units, apartments number 6 and 7 (the "Vacant Units").

9. The plan proposes to pay Tower in full on the "effective date." The Plan proposes that the Tax Liens are unimpaired, and are therefore ineligible to vote.

10. The effective date of the plan is contingent on multiple events:

   a. The confirmation of the plan,

   b. The successful conversion of the premise and

   c. The sale of both vacant apartments having closed.

11. Debtor seeks to convert the Property into a coop, a long and expensive process.

12. The Disclosure Statement contemplates that process will require three months just to complete the application, followed by a review process of 12 to 18 months just to determine eligibility.

13. Assuming the conversion is approved, the conversion itself will take several additional months.

14. Then, assuming the coop conversion is successfully completed, the two vacant units would need to be marketed and sold, a process which will likely take several further months.

15. The proceeds from the sale of these two units the Debtor's proposed basis for the funding of the Debtor's plan of reorganization.

16. No valuation is provided for the expected value of the Vacant Apartments, so Tower is unable to make an informed decision about the feasibility of the plan.

17. If the value of the entire building is approximately $2 million dollars, it seems unlikely that the sale of two units would be sufficient to pay even the secured claims in Class 2, estimated to exceed $1.2 million, in full.

18. No estimate of the costs of conversion is provided. It appears that the costs of conversion are to be paid out of the monthly rent payments of the existing tenants, but it is not clear whether the Debtor can afford this cost from the monthly rental income.

19. It is not clear what effect a further vacancy would have on the Debtor's plan of reorganization. If one of the currently occupied apartments were to become vacant and not filled immediately, it is unclear if the plan would still be able to be successfully completed.

20. If the sale of the two Vacant Units is insufficient to fund the plan, the Debtor proposes to fund the shortfall through a special assessment on the owners. Without an

approximate valuation of the sale price of the vacant units, it is impossible for Tower to make an accurate estimation of the likelihood for the need for a special assessment or the size of said assessment.

21. Further, the "effective date" as defined by the plan does not appear to contemplate the need for a special assessment, and the plan would go effective the following business date after the closing of the vacant apartments, regardless of whether there are sufficient funds to make the payments contemplated in the plan.

22. The effective date should be revised to provide time for the special assessment to take place if the sale proceeds are insufficient to fund the plan.

23. Tower asserts that its claim is *impaired.* The entire amount of the Tax Lien is due and payable immediately. The Debtor's proposed plan seeks to force Tower to wait a period of at least two years for payment under the plan. This constitutes a material alteration to Tower's legal, equitable and contractual rights.

24. In addition, as stated above, there is insufficient information provided in the Plan and Disclosure statement for Tower to make an informed decision about whether to vote in favor of the plan.

25. Further, as a result of the long period after confirmation required to bring the plan effective, Tower believe it is appropriate that time frames be outlined, and that default on the timelines, or on other provisions of the plan, would result in automatic relief from the automatic stay.

CONCLUSION

26. Based on the foregoing reasons, Chase respectfully requests that the Court deny the Debtor's plan and disclosure statement and deny confirmation of the proposed Plan unless modified as expressed above.

Dated: October 25, 2016
Melville, NY

/s/ Robert W. Griswold
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